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10 UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12 [San Francisco Division]

13 MANI SUBRAMANIAN, as an individual  
14 etc.,

15 Plaintiff,

16 vs.

17 ST. PAUL FIRE AND MARINE  
INSURANCE COMPANY, et al. (including  
18 QAD INC., a Delaware Corporation with  
principal place of business in California; JOHN  
19 DOORDAN, an individual and citizen of  
California; LAI FOON LEE, an individual and  
20 citizen of California; ROLAND DESILETS, an  
individual and citizen of New Jersey; and,  
21 WILLIAM D. CONNELL, an individual and  
citizen of California),

22 Defendants.  
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**Case No. 08-cv-1426-VRW [ECF]**

Date: October 9, 2008

Time: 2:30 p.m.

Dept: Courtroom 6

Judge: Hon. Vaughn R. Walker

24 **NOTICE OF MOTION BY DEFENDANTS**  
25 **QAD INC., WILLIAM D. CONNELL, JOHN DOORDAN, AND LAI FOON LEE**  
26 **TO DISMISS COMPLAINT PURSUANT TO FRCP RULE 12(b)(6)**  
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**TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that, on October 9, 2008, at 2:30 p.m., or as soon thereafter as the matter may be heard, before The Hon. Vaughn R. Walker, in Courtroom No. 6, on the 17<sup>th</sup> Floor, United States District Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, defendants QAD INC., JOHN DOORDAN, LAI FOON LEE, and WILLIAM D. CONNELL (collectively "QAD-Related Defendants") will and hereby do move the Court in the above-captioned matter for an Order dismissing the Complaint, and each and every cause of action therein, on the grounds set forth below.

The QAD-Related Defendants make this Motion pursuant to Rule 12(b)(6), and on the grounds that: (1) the Complaint, and each and every purported cause of action therein, fail to state any claim upon which relief can be granted, in that:

1. The Complaint, and each and every purported cause of action therein, are barred by the doctrine of *res judicata*;

2. The First Cause of Action (to set aside this Court's Order dismissing the claims in Case No. 04-1249-VRW) should be dismissed as duplicative litigation and lacking any justification;

3. The Second, Fourth, and Fifth Causes of Action are barred by the statutes of limitations respectively applicable to each;

4. The Second Cause of Action is barred by the *Noerr-Pennington* doctrine; and,

5. The Complaint, and each and every purported cause of action therein, fail to state facts sufficient to set forth a claim for relief.

The Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities and Request for Judicial Notice, with exhibits, filed by the QAD-Related Defendants concurrently herewith, the Complaint on file herein, and such further matters and argument, oral or written, as the Court may entertain at the hearing hereof.

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1 Dated: August 4, 2008

2 WILLIAM D. CONNELL  
3 SALLIE KIM  
4 GCA LAW PARTNERS LLP

5 By: William D. Connell.  
6 William D. Connell

7 By: Sallie Kim.  
8 Sallie Kim

9 Attorneys for Defendants QAD Inc.,  
10 John Doordan, Lai Foon Lee, and  
11 William D. Connell  
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